

***Governor's Task Force on Contracting and Procurement Review
Recommendation #12 - Industry Workgroup First Meeting***

May 20, 2003

Attendees

Ralph Chandler, Deputy Director, Procurement Division (PD), CA Department of General Services (DGS)
Marnell Voss, Manager, Business Development Unit, PD, DGS
Gloria Santos, Technology Acquisitions, PD, DGS
Bill Fackenthall, Project Manager Procurement Reform Task Force Recommendation #7, PD, DGS
Deborah Pearce, Business Development Support, PD, DGS

Bill Kumagai, Gartner
Darren Chiappinelli, Sabot Technologies (Initiative #7 consultant)
Edward DiNardo, IBM
Elisabeth Brinton, Natoma Technologies
Gloria Fitzpatrick, IBM
Jeff Kossick, Hewlett-Packard Co.
Kathy Hatch, American Electronics Assoc.
Laura Soulages, Wire One Technologies, Inc.
Michael Nulhern, Superior Produce, Inc.
Patrick Callahan, SAIC
Patty Nelson, VIP
Stan Van Vleck, representing Kahn, Soares & Conway
Tom Tyisna, Siemens
Rick Venegas
Vicki Vernan, SAIC

Marnell Voss opened the meeting at 1:10P.M. by identifying the dgs.ca.gov/pd website as a source of information on Procurement Reform and briefly mentioned the newly formed point of contact program of Procurement Contract Officers (PCO).

Ralph Chandler led off the meeting with an introduction to meeting attendees.

Ralph arrived at DGS in the midst of the 'Oracle' environment that widely diverted attention away from state contracting in general and other procurement concerns. The result of the Oracle experience was Executive Order D-22-02 that directed the formation of a three-member task force. The task force developed 20 recommendations that became initiatives with a focus on open competition and other reform issues. The six-month progress report on the implementation of the initiatives was released February 2003 with the annual report due in August 2003.

One of the reform initiatives addresses stakeholders input, a process not normally used Control Agencies such as DGS.

Since Ralph has become Procurement Division's (PD) Deputy Director, the DGS Directorship has changed three times. Information Technology Association of America (ITAA) members and others assisted PD to rewrite the IT contract's Terms and Conditions (T&Cs) through the use of an iterative process. Ralph supports using an iterative process of review, rewrite, and review to produce work products.

A highlight of Procurement Reform legislative report is the introduction of a single point of contact for procurement and contract within each department/agency. This liaison is known as the Procurement Contract Officer (PCO). The goal is to assign delegated purchasing authority on different thresholds based on the knowledge and skills of the PCO. A gap analysis performed from survey results that had been returned by a very high percentage of the buyers throughout the state showed that major gaps exist in skills in areas of Statement of Works, bonding, preference programs, or which procurement vehicles are appropriate for different procurement types. As a result of these efforts a critical tenet has shown that a "training program and certification of individuals in order to validate their knowledge and skills" is necessary.

To date, University of California, Northridge has partnered with PD to assist in the planning of the training structure. Approximately \$1.5 million in FY03/04 and approximately \$2 million in FY04/05 are budgeted for this training and certification program. To date, two 8-hour classes are offered in the areas of ethical decision-making and leverage procurements.

In order to proceed with this necessary training and certification, we first need to have our Policy and Procedure (P&P) instruments available and put in place. Even our own staff needs standards and this brings us to reform initiative #7, uniform policies and procedures.

We have today Darren Chiappinelli, who is a consultant from Sabot Technologies who is subcontracted by Eskel Porter to assist Bill Fackenthall, Project Manager in the implementation of initiative #7. Standard P&Ps are needed for procurement reform to work.

This working group is intended to be informal. You may leave the group; send replacements, volunteer for tasks, etc. We are asking for your assistance in the development of clear policies and procedures by sharing best practices, knowledge of what other states are doing, and other related information.

Something is broken and we have a skill gap in the procurement process itself. One question is: 'would templates, streamlined processes, greater transparency and clearer standards be helpful in laying out the rules of procurement?' An example is a boilerplate RFP.

There is no single source document in place. We currently use State Contracting Manual (SCM), Contracting Administrative Manual (CAM) and State Administrative Manual (SAM). They are outdated, incomplete or specialized.

At this point in the meeting introductions were made around the table.

Marnell: The T&Cs model language applies to large IT projects over \$500,000. (**Ralph** - we are currently reviewing model T&C's for the CMAS program.)

Marnell identified the goals and objectives outlined in Initiative #12's draft Charter that was developed by a DGS group (a copy of the draft charter was distributed at the end of the meeting.) This draft will serve as a starting point for discussion of a final charter for the Industry Workgroup who will consist of this supplier group, an ITAA group, the Partnership Council (state personnel already working with DGS), focus groups from different initiative efforts, and pilot agencies. The charter's template is that used in the Data Centers and large state departments with other public groups.

All procurement reform initiative #12 information and working documents will be posted to PD's web site. Questions and comments can be sent to Marnell directly at Marnell.Voss@dgs.ca.gov. Additionally, the Customer Service link on PD's web site goes directly to Marnell. Once final, the charter will be signed by Ralph and Sandra Duveneck, Deputy Director of DGS' Management Services Division.

Bill Fackenthall began discussion of initiative #7. Although initiative #7 is broad, the idea is to identify the basic problems with how we do business in the state of California and make some improvements. A five-month contract with Eskel Porter is underway to identify and analyze issues resulting in recommendations on the development of uniform contracting and procurement policies and procedures, analysis and recommendations on organizational roles and responsibilities, and preparation of implementation plans for the recommendations. The final deliverable due August 3, 2003 will be a report that is a comprehensive map on how to improve the way the procurement business is conducted for the State. The recommendations are intended to become initiatives, be prioritized and Implementation will commence immediately. Eskel Porter has a contract option to assist in the implementation of the initiatives.

Representative topics included in the PowerPoint handout are:

- Single source for procurement policies
- Policy development and implementation system
- Standard procurement methods, models, procedures and templates
- Dedicated policy development organization

There is no single source for procurement policies as evidenced in SAM, CAM and SCM nor is there a system in place for maintaining policies. Within PD alone, the four major program types each have different mechanisms for issuing new policy or changes to existing policy, such as management memos, supplements, etc. Also, each of the program areas defines policy in different ways. This indicates a need for changes in organizational structure to establish a dedicated policy group. These types of things cannot be done in a vacuum, and although we already have Agency support, we also need stakeholder support particularly during implementation. Bill would very much like to see this group provide issues papers that include solutions on those areas that they would like to see improvement in.

Customer: The States of Wisconsin and Texas are in the same condition as California. Some of the smaller states are mirroring the Federal procurement programs and wanted ethical contracts

and actions. Is initiative #7 also looking at the Federal and other state governments for solutions? GSA's are good because they are very straightforward and steps are understandable.

Darren: We are looking at best practices in other states. The initiative #7 team is also looking at Admin Law as a source for model procedures and processes for other states. Research has been conducted with the National Association of State Purchasing Officials (NASPO) that offered a lot of informational articles on best practices. Also, the American Bar Association offers model procedure code to the States that was initially developed in the 1970's but since reviewed. Some states use the ABA code partially or in total.

Initiative #7's efforts-to-date have included a lot of raw research and that information is now beginning to be organized. The analytical approach is to run the major issues through a core of DGS staff and boil them into a central theme. These themes will become initiatives (recommendations) and will include objectives, resources, expected outcomes, schedule, dates, etc. and importantly, dependencies. A report with these initiatives will form the basis for next year's activities.

The following are needed:

1. A system for uniform and standard policy.
2. An organizational structure in place to support the remaining initiatives that will be recommended.

Darren opened the discussion to the group and Bill mentioned that a white paper on any relevant topic from the suppliers would be appreciated.

The timeframe of the report is August 2003 and we are at the midpoint of the study. First the issues are identified and formulated into initiatives. Next, the consultants have a one-year option to help DGS implement the initiative's work plan. This second effort will be implementing the process for uniform policy and procedures into the organization.

Ralph: The consultant role has been to give momentum to DGS with new rigor, to assist in establishing a new office for policy or governance and in centralizing policy.

Darren: The three phases of initiative #7 are:

- First, identify the what and how that will be documented in the agency report.
- Second, centralize and clean up current policy and procedures.
- Third, maintain and continue the new organization.

Ralph mentioned that all contacts responded to the survey that was sent out, and additional input can be submitted to Bill or Darren through their email address.

(William.Fackenthall@dgs.ca.gov and Darren.Chiappinelli@dgs.ca.gov). We would really like the suppliers to share case studies or examples. Come August, we will have an organization in place for this initiative effort through redirection of staff. Bill mentioned that the greatest need for resources is upfront. Darren asked the group how they would like to participate now and after the report is released.

Customer: On the practical side, we would like to see the 30 initiatives already identified. Also, is PD requesting specific questions, such as 'competition'? Or when is a sole source okay and when isn't it? Is this appropriate for this group? Are there strategic guiding principles underlying this and are we working on them?

Darren: We would like to hear specific things and areas of concern in this open discussion. We don't want to give specifics of the 30 initiatives here and now, but such things as 'what constitutes an emergency?' etc. This question is representative on one of the 30 initiatives. We didn't want to lead the group or come in with an agenda, but wanted first to identify what's on your mind. Research methodology is to receive, not to guide.

Customer: Are you looking at what will require legislative changes? It would be nice to see general issues and comments on those too because we have no power over statutory changes. For example, identify where the law or legislature or code for general authority filters out statutory issues. Sometimes one fixes the other.

Customer: Technology changes requirements. Need the flexibility to make additions and changes. Darren mentioned that they have met with staff counsel and other lawyers to discuss this. An example is 'conflict of interest' that needed a code change, but now the new law will come in July 1, 2003 to override what is currently in code.

Customer: How is DGS looking at contracts? Prioritize based on tax size or dollars or what? We would like DGS to tell us the criteria.

Ralph: We have discussed changes within contract review for goods, services, commodities and IT goods and services. Services all go to Office of Legal Services (OLS), external departments with delegation would go to OLS, and IT contracts would go to PD.

Right now, different departments have their own methodologies, and design their own RFP's, etc. We could simplify the process by using standard forms or templates. Is this valid as a guiding principle? An example of the brokenness of process is the 35 RFP templates for RFP that the State of California has. Other states have four to five. What can be fixed?

Ralph: The role of DGS is to provide procurement vehicles, for example CMAS, quotes, small business and master agreements. Do we need all these with endless cycles for each? The post ordering procedures for each pre-qualified Master Service Agreement (MSA) are turning into a 'special' procedure. In Alternative Procedures, if all are needed, how can the program be consolidated? How do we close bids? They end up with protest cycles. This is all very very confusing.

Customer: We are back to the late 80's, CMAS met DGS opposition all the way. Vendors stopped participating due to 'over regulating'. Is this the right direction? CMAS was never intended for huge projects. The original cap was \$250,000 then it increased to \$500,000, then exemptions to that limit were granted. Is it appropriate to require three bids? Use 'appropriate

needs' and look at Feds to see if some parts could be used. GSA is a negotiated contract with Feds, it is not competitively bid.

CMAS was supposed to mirror GSA - safe, low risk, a cookie cutter.

Ralph: Are you proposing to look at CMAS and MSA's? The policy issue areas for those two programs might be a future topic for discussion.

Customer: Every state looks at the cost of government contracting. The vendor puts in all this costs and effort, then a buyer can simply go to the CMAS vendor who has made no investment. We are back to the 80's and at gridlock.

Suggestions:

1. Wouldn't want to lose focus of standard RFP templates or amendments for complex projects.
2. Need rules for amendments.
3. It should state in the RFP what can and cannot be amended.
4. Need an efficient way to amend contract in post award period.

If one looks at MSA and CMAS side by side, there are obvious contradictions. Analysis could begin with a matrix of the rules and mechanics of each.

The government is open to protest-able documentation in the areas of deliverables, contract, technical requirements, and T&Cs throughout the RFP.

There are many conflicts with contracts because they should never have hit the street. Need education and an 'end game'. An example would be that an RFP would not go out until it goes through quality assurance. And who is the coach of 'end game'? An example (of a conflict) is that two different statement of works went to two different vendors.

Need clear articulation of guiding principles to run issues through. The principles would answer basic questions, such as 'how does California define value?' and 'how much risk is too much?'. Standardization is a good thing; the question is how much?

It's very important to reduce the cost of solicitations else you have reduced competition. The procedure should reflect the appropriate level of risk.

Risk assessment and management such as bonds are a good way to go, although PD or Delegations arbitrarily use it. PD should look at delegated authority in different departments for inconsistent applications of this authority. I think this group could boil this ocean if you allowed us to. We are happy to help and have a lot of ideas.

With only 2 1/2 months available, the energy of this group should be channeled to assist with initiative #7. White papers or individual notes, and emails are one way to provide input for initiative #7. Are individual interviews possible?

Darren: With only 2 1/2 months, I have no time. Bill states that Darren is doing an independent assessment. We really need to stay objective and prefer not to influence the group.

Customer: How can we help the most? I would really like to discuss guiding principles with this group to channel the discussion.

Customer: The initiative #7 consultants could find time to conduct one on one, 15 minutes interviews if they wanted to. A confidential, private approach is preferred. Sometimes vendors partner and sometimes they compete, therefore discussions of marketing approach in areas of procurement is not desirable. Each supplier has pain points.

Another suggestion is to confine discussion to specific areas by identifying maybe five questions that each would respond to.

Ralph: I appreciate and recognize what you are saying. We do need to focus our effort. These are the steps that will be taken:

- Ralph will have a private conversation with Bill and Darren for a mechanism that offers more private input.
- The next meeting will be scheduled where DGS would present a draft set of guiding principles for discussion.
- Concurrently, the CMAS and MSA program areas will develop top their 20 30 policies and procedures and bring to the table for discussion.
- Ralph will think through the standardization of more complex RFP and discuss with his staff.

Everyone was thanked for joining in today's effort in "de-mystifying the procurement process".

Handouts

1. Agenda
2. Draft - Governor's Task Force on Contracting and Procurement Review Report, Recommendation #12, Charter
3. Summary of Responses to Procurement Task Force #12 Questionnaire
4. Procurement Reform Recommendation #7 - PowerPoint slide handout
5. A Report to the Governor on the Implementation of the Recommendations of the Task Force on Contracting and Procurement Review February 14, 2003